

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

In the Matter of)

Cequel Communications, LLC d/b/a)

Suddenlink Communications)

Request for Waiver of 47 C.F.R. § 15.712)

ET Doc. No. 04-186

RECEIVED - FCC

Attn: Chief, Office of Engineering and Technology

APR -5 2011

Federal Communications Commission
 Bureau / Office

REQUEST FOR WAIVER

Cequel Communications, LLC d/b/a Suddenlink Communications ("Suddenlink") respectfully requests that the Commission waive the distance requirement set forth in Section 15.712(b) of its rules, so as to provide critical interference protection for the continued receipt of broadcast signals at certain cable headends and associated signal receive locations from unlicensed Television Band Devices (TVBDs).¹

Suddenlink serves approximately 1.4 million subscribers in 18 states. Many of Suddenlink's cable systems are located in smaller communities in smaller television markets. Suddenlink has reviewed its existing reception of broadcast signals and requests this interference protection waiver for just three of its many broadcast receive sites located across the country. In particular, Suddenlink seeks a waiver with respect to its facilities located in Muskogee, OK, Danville, AR, and Neosho, MO.

¹ The instant waiver request is being filed with the Office of Engineering and Technology and, therefore, is not subject to the fee filing requirements applicable to Special Relief petitions submitted to the Media Bureau.

On September 23, 2010, the Commission adopted final rules for the introduction of unlicensed TVBDs for operation in the unused spectrum in the TV bands (or “white spaces”).² Section 15.712(b) of the rules provides, in pertinent part, that multichannel video programming distributor receive sites, *e.g.* cable headends, “located outside the protected contour of the TV station(s) being received may be registered in the TV bands database if they are no farther than 80 km outside the nearest edge of the relevant contour(s).”³ In its Second Memorandum Opinion and Order (the “Order”) adopting the final rules, the Commission recognized that “there are cable headends that receive TV station signals located at distances beyond 80 km from the edge of the television station’s protected service contour” and acknowledged concerns about “possible disruption of service to cable subscribers” in those areas from unlicensed TVBDs.⁴

The Commission, therefore, provided that current MVPD operators with receive sites located beyond the 80 km protected zone may apply within 90 days after the effective date of the rules for a waiver of that distance.⁵ Pursuant to the Order, such waiver requests would also involve shifting the 20 km adjacent channel protection distance so that it is measured from the actual headend receive site rather than from the station’s contour.

The instant request is consistent with the waiver mechanism set forth within the Commission’s Order. Suddenlink is seeking a waiver for just three broadcast receive sites. In each instance, the distance calculation provided by Suddenlink is based on the FCC’s maps of

² See *In the Matter of Unlicensed Operation in the TV Broadcast Bands, Additional Spectrum for Unlicensed Devices Below 900 MHz and in the 3 GHz Band*, ET Docket No. 04-186, ET Docket No. 02-380, Second Memorandum Opinion and Order, FCC 10-174 (rel. Sept. 23, 2010).

³ 47 C.F.R. § 15.712(b).

⁴ Order at ¶ 42.

⁵ See *id.* The rules went into effect January 5, 2011. MVPD operators that commence operation in the future with receive sites located beyond the co-channel and adjacent protection distances may apply for a waiver of those distances within 90 days of commencing operation. *Id.*

digital television stations⁶ and its TV service contour data, which is regularly updated and available on the Commission's website.⁷

Suddenlink provides cable service to approximately 10,500 customers in the communities of Muskogee, Muskogee County, Wagoner, and Wagoner County, Oklahoma. In particular, it imports broadcast station KSBI, which is located 193.45 km away, to residents in these communities. In order to provide this distant broadcast station to its customers, Suddenlink uses a 100 foot antenna tower, which receives the over-the-air signal from the distant broadcast transmitter and transmits it via cable to its customers. This receive site is located approximately 81.77 km from the protected contour of station KSBI, and thus exceeds the 80 km protection zone provided to cable headends in the rules.⁸

Suddenlink provides cable service to approximately 300 customers in the communities of Danville, Belleville, Yellville, and Havana, Arkansas. In particular, it imports broadcast station KKYK, which is located 122.00 km away, to residents in these communities. In order to provide this distant broadcast station to its customers, Suddenlink uses a 50 foot antenna tower located on a mountain top, which receives the over-the-air signal from the distant broadcast transmitter and transmits it via cable to its customers. This receive site is located approximately 85.31 km from the protected contour of station KKYK, and thus exceeds the 80 km protection zone provided to cable headends in the rules.

Suddenlink provides cable service to approximately 1,500 customers in the communities of Neosho and Newton County, Missouri. In particular, it imports broadcast station K15CZ,

⁶ See <http://fcc.gov/dtv/markets/>.

⁷ See http://fcc.gov/ftp/Bureaus/MB/Databases/tv_service_contour_data/readme.html.

⁸ Details regarding this specific receive site and the other two sites covered by this Request are set forth in Exhibit 1.

which is located 105.92 km away, to residents in these communities. In order to provide this distant broadcast station to its customers, Suddenlink uses a 250 foot antenna tower, which receives the over-the-air signal from the distant broadcast transmitter and transmits it via cable to its customers. This receive site is located approximately 85.09 km from the protected contour of station K15CZ, and thus exceeds the 80 km protection zone provided to cable headends in the rules.

Without a waiver of the distance rules, Suddenlink's reception of the broadcast stations identified above could be seriously disrupted by unlicensed TVBDs operating within the beamwidth of the distant signal, resulting in the loss of that station's programming in the respective communities. Suddenlink respectfully requests, therefore, that the Commission waive the distance requirement in Section 15.712(b) of the Commission's rules, and permit the Company to register its headend/receive sites located in the TV Band geo-location database in order to protect it from harmful interference from TVBDs. Suddenlink also requests that the waiver provide that the 20 km adjacent channel protection zone be measured from the headend/receive site. This waiver will ensure that valuable broadcast television programming continues to be available without disruption to Suddenlink's cable customers.

In sum, the instant waiver request fully satisfies the Order's grounds for waiver requests and will serve the public interest. It also meets the Commission's general waiver standard set forth in Section 1.3 of the Commission's rules.⁹

Respectfully submitted,

CEQUEL COMMUNICATIONS, LLC D/B/A
SUDDENLINK COMMUNICATIONS

By: 

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April 5, 2011

⁹ 47 C.F.R. § 1.3 ("Any provision of the rules may be waived by the Commission on its own motion or on petition if good cause therefor is shown.").

CERTIFICATION PURSUANT TO 47 C.F.R. § 76.6(a)(4)

The below-signed signatory has read the foregoing Request for Waiver, and to the best of my knowledge, information and belief formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification or reversal of existing law; and is not interposed for any improper purpose.

Respectfully submitted,

CEQUEL COMMUNICATIONS, LLC D/B/A
SUDDENLINK COMMUNICATIONS

By: _____

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Exhibit 1

| Headend | Broadcaster | Off Air Channel | Communities Served | Approx. Subscribers | Headend Street Address | Headend Latitude | Headend Longitude | Distance From Contour (km) | Distance Station to receive site (km) |
|--------------|-------------|-----------------|--|---------------------|---------------------------------------|------------------|-------------------|----------------------------|---------------------------------------|
| MUSKOGEE, OK | KSBI | 51 | Wagoner, Wagoner County, Muskogee, Muskogee County | 10,500 | 400 Eastside Blvd. Muskogee, OK 74403 | 35 44 54.9 | -95 21 20. | 81.77 | 193.45 |
| DANVILLE, AR | KKYK | 20 | Danville, Belleville, Yellville, Havana | 300 | 2400 Hwy 27 S, Danville AR 72833 | 35 1 50.16 | -93 23 15 | 85.31 | 122.00 |
| NEOSHO, MO | K15CZ | 15 | Neosho, Newton County | 1500 | 930 Reid Rd, Neosho MO 64850 | 36 50 52.0 | -94 22 23. | 85.09 | 105.92 |

DECLARATION OF MICHAEL J. ZARRILLI

I, Michael J. Zarrilli, declare, under penalty of perjury that:

1. I am Vice President Government Relation & Senior Counsel for Cequel Communications, LLC d/b/a Suddenlink Communications.
2. I have read the foregoing Request for Waiver. With respect to statements made in the Request for Waiver, other than those of which official notice can be taken, the facts contained therein are true and correct to the best of my knowledge, information and belief.

April 5, 2011
Date


Michael J. Zarrilli